S.B. CIVIL MISC. APPLICATION NO.37/2007
Parsa Ram & Ors.
vs
Municipal Board, Taranagar & Anr.

Date of order : 7.9.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.MS Singhvi,for the applicants.
Mrs. RR Kanwar Dy. GA
Mr.RR Nagori, for the respondent.

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Heard learned counsel for the parties on application moved by the applicants for correction in the judgment dated 4.1.2007 passed in SBCSA No.156/1992.

All the parties agrees that in fact the applicants were not party in the SBCSA No.156/1992 and they submitted application to protect their possession because of the apprehension that these applicants may be evicted by the Municipal Board, Taranagar – the appellant of SBCSA No.156/1992, during the pendency of the appeal and because of the interim order passed by this Court in SBCSA No.156/1992 dated 13.10.1997.

According to applicants the above order dated 13.10.1997 was modified by order dated 18.12.1997 wherein the court observed that in case the properties held to be the Municipal property in the appeal then the Municipal Board will be free to take

action and the possession of the 14 applicants were protected on their furnishing undertaking that in case the SBCSA No.156/1992 is decided in favour of the Municipal Board then they will have to hand over the peaceful possession to the Municipal Board.

The SBCSA No.156/1992 was dismissed by this Court vide judgment dated 4.1.2007. Therefore, the rights of the Municipal Board, Taranagar was not recognized by the court and, therefore, no action can be taken against the applicants by the Municipal Board, Taranagar – appellant of SBCSA No.156/1992, on the basis of undertaking submitted by the applicants in SBCSA No.156/1992 in pursuance of the two orders referred above.

It is clear from the facts of the case itself that the applicants' undertaking was for a limited purpose and the right was given to the appellant Municipal Board, Taranagar to take possession in case they are declared to be owner of the property and the applicants could have been evicted because of their undertaking furnished in this Court only in case the Municipal Board could have established its title, therefore, the undertaking furnished by the applicants in SBCSA No.156/1992 stands exhausted with the final decision of the SBCSA No.156/1992 and, therefore, that undertaking cannot be used against the applicants.

Since detail order has been passed on this application, therefore, no need to make any correction in the original order and this order be treated as supplement to the original order.

Hence, the application for correction of order dated 4.1.2007 is allowed.

(PRAKASH TATIA), J.

c.p.goyal/-